

TITLE 32 SPECIAL DISTRICTS

ARTICLE 1 Special District Provisions

PART 8 ELECTIONS

32-1-801. Legislative declaration - applicability. It is hereby declared that the orderly conduct of elections of special districts will serve a public use and will promote the health, safety, security, and general welfare of the people of the state of Colorado. Therefore, all elections shall be held pursuant to the provisions of articles 1 to 13 of title 1, C.R.S., unless otherwise provided.

32-1-802. Acts and elections conducted pursuant to provisions which refer to qualified electors. Any elections, and any acts relating thereto, carried out under this part 8, which were conducted prior to July 1, 1987, pursuant to provisions which referred to a qualified elector rather than an eligible elector and which were valid when conducted, shall be deemed and held to be legal and valid in all respects.

32-1-803. Acts and elections conducted pursuant to provisions which refer to registered electors. Any elections and any acts relating to those elections, carried out under this part 8 which were conducted prior to July 1, 1992, and which were valid when conducted, shall be held to be legal and valid in all respects.

32-1-803.5. Organizational election - new special district. At any election for the organization of a new special district, the court shall also order the submission of the proposition of issuing general obligation bonds or creating other general obligation indebtedness or any question or questions necessary to implement the provisions of section 20 of article X of the Colorado constitution as applied to the new special district, if the petition filed pursuant to section 32-1-301 requests that such questions be submitted at the organizational election. The order of the court shall make the determinations required by section 32-1-1101 (2) and (3) (a) and require the clerk of the court to conduct the election in accordance with section 20 of article X of the Colorado constitution.

32-1-804. Board to conduct elections - combined election - time for special election. (1) After a special district is organized and the first board is elected, the board shall govern the conduct of all subsequent regular and special elections of the special district and shall render all interpretations and make all decisions as to controversies or other matters arising in the conduct of the elections. The board in its discretion, but no more frequently than every four years, may reestablish the boundaries of director districts created pursuant to section 32-1-301 (2) (f) so that the director districts have, as nearly as possible, the same number of eligible electors.

(2) All powers and authority granted to the board by this part 8 for the conduct of regular or special elections may be exercised in the absence of the board by the secretary or by an assistant secretary appointed by the board. The person named by the board who is responsible for the conducting of the election shall be the designated election official.

32-1-804.1. Call for nominations. Not less than seventy-five days nor more than ninety days before a regular special district election, the designated election official shall provide notice by publication of a call for nominations for the election. The call shall state the special district director offices to be voted upon at the election, where a self-nomination and acceptance form may be obtained, the deadline for submitting the self-nomination and acceptance form to the designated election official, and information on obtaining an absentee ballot.

32-1-804.3. Candidates for director - self-nomination and acceptance form.

(1) Not less than sixty-seven days before the date of the regular special district election, any person who desires to be a candidate for the office of a special district director shall file a self-nomination and acceptance form or letter signed by the candidate and by a registered elector as a witness to the signature of the candidate.

(2) On the date of signing the self-nomination and acceptance form or letter, a candidate for director shall be an eligible elector of the special district, if the district is divided into director districts established pursuant to section 32-1-301 (2) (f), the candidate shall be an eligible elector within the boundaries of the director district in which the candidate is running for office.

(3) A self-nomination and acceptance form that is not sufficient may be amended once at any time prior to 3 p.m. on the sixty-seventh day before the election.

(4) The self-nomination and acceptance form or letter shall state the name of the special district in which the election will be held, the special district director office sought by the candidate, the term of office sought if more than one length of a director's term is to be voted upon at the election, the date of the election, and the full name of the candidate as it is to appear on the ballot. Unless physically unable, all candidates and witnesses shall sign their own signature and shall print their names, their respective residence addresses, including the street number and name, the city or town, the county, telephone number, and the date of signature on the self-nomination and acceptance form or letter.

(5) The self-nomination and acceptance form or letter shall be filed with the designated election official or, if none has been designated, the presiding officer or the secretary of the board of directors of the special district in which the election will be held.

(6) The self-nomination and acceptance form or letter shall be verified and processed substantially as provided in section 1-4-908, C.R.S. A protest on such a form or letter shall be determined substantially as provided in sections 1-4-909 and 1-4-911, C.R.S. Cure of such a form or letter shall be allowed substantially as provided for in section 1-4-912, C.R.S.

32-1-805. Time for holding elections - type of election - manner of election.

(1) Except as otherwise provided in subsection (4) of this section, regular special district elections shall be held on the Tuesday succeeding the first Monday of May in every even-numbered year.

(2) Special elections may be held on the first Tuesday after the first Monday in February, May, October, or December, except for ballot issue elections, which may be held only in a state general election, biennial local district election, or on the first Tuesday in November of odd-numbered years. A ballot issue election that is not part of an organizational election shall be conducted either as part of a coordinated election or in accordance with the provisions of the "Mail Ballot Election Act", article 7.5 of title 1, C.R.S.

(3) Whenever the date of a regular special district election is identical to the date set for a municipal or another special district election in any municipality or other special district having boundaries coterminous with the special district, the election may be held jointly with the municipal or other special district election.

(4) Any election for the organization of a new health assurance or health service district shall be held on the date of the general election or on the first Tuesday in November of an odd-numbered year, and any election on the proposal of a health assurance or health service district shall be conducted by the county clerk and recorder in which the proposed district will be located as part of a coordinated election in accordance with the provisions of section 1-7-116, C.R.S.

32-1-806. Persons entitled to vote at special district elections. (1) No person shall be permitted to vote in any election unless that person is an eligible elector as defined in section 32-1-103 (5) (a).

(2) Any person desiring to vote at any election as an eligible elector pursuant to section 32-1-103 (5) (a) (II) shall sign a self-affirmation that the person is an elector of the special district. The self-affirming oath or affirmation shall be on a form that contains in substance the following:

"I, (printed name), who reside at (address), am an elector of this (name of special district) district and desire to vote at this _____ election. I do solemnly swear (or affirm) that I am registered to vote in the state of Colorado and qualified to vote in this special district election as:

_____ A resident of the district or area to be included in the district for not less than thirty days; or

_____ The owner of taxable real or personal property situated within the boundaries of the special district or area to be included within the special district; or

_____ A person who is obligated to pay taxes under a contract to purchase taxable property in the special district or the area to be included within the special district; or

_____ The spouse of (name of spouse) who is the owner of taxable real or personal property situated within the boundaries of the special district or area to be included within the special district.

I have not voted previously at this election.

Date _____

Signature of elector _____."

(3) For electors who vote at any election by mail-in ballot or mail ballot, the affidavit on the envelope of the ballot as required by title 1, C.R.S., may be substituted for the self-affirming oath or affirmation required by subsection (2) of this section.

(4) A person who completes the self-affirming oath or affirmation required by subsection (2) of this section shall be permitted to vote, unless such person's right to vote is challenged.

32-1-807. Nonapplicability of criminal penalties. Election offenses and penalties prescribed by parts 2 and 3 of article 13 of title 1, C.R.S., do not apply to elections authorized under this title.

32-1-808. Transfer of property title to qualify electors - limitations. (1) (a) No person shall knowingly take or place title to taxable property in the name of another or enter into a contract to purchase or sell taxable property for the purpose of attempting to qualify such person as an eligible elector at any special district election. Any ballot cast in violation of this subsection (1) as determined in an election contest conducted pursuant to part 2 of article 11 of title 1, C.R.S., shall be void.

(b) No person shall aid or assist any person in doing any of the acts described in paragraph (a) of this subsection (1).

(2) (a) A person may take or place title to taxable property in the name of another or enter into a contract to purchase or sell taxable property for the purpose of attempting to qualify such person as an eligible elector for any special district election under the following circumstances:

(I) A vacancy exists on the board of the special district and, within ten days of the publication of notice of such vacancy, no otherwise qualified eligible elector files a letter of interest in filling such position with the board;

(II) In any organizational election at which there are more than ten eligible electors, on or after the second day before the filing deadline for self-nomination and acceptance forms or letters pursuant to section 32-1-305.5 (4), the number of otherwise qualified eligible electors who have filed such self-nomination and acceptance forms or letters is less than the number of special district director offices to be voted upon at such election;

(III) There are less than eleven eligible electors as of any date before an organizational election; or

(IV) On or after the day after the filing deadline for self-nomination and acceptance forms or letters pursuant to section 32-1-804.3, before any regular special district election, the number of otherwise qualified eligible electors who have filed self-nomination and acceptance forms or letters pursuant to section 32-1-804.3 is less than the number of special district director offices to be voted upon at the election.

(b) (I) Notwithstanding any other provision of law, no person shall place title to taxable property in the name of another or enter into a contract to sell taxable property for the purpose of attempting to qualify more than the number of persons who are necessary to be eligible electors in order to:

(A) Fill a vacancy on a board except as permitted by the provisions of subparagraph (I) of paragraph (a) of this subsection (2); or

(B) Become a candidate for director in a special district election except as permitted by the provisions of subparagraphs (II), (III), and (IV) of paragraph (a) of this subsection (2).

(II) The incidental qualification of the spouse of a person as an eligible elector pursuant to section 32-1-103 (5) (a) (II) shall not constitute a qualification of more than the number of persons necessary to be eligible electors under subparagraph (I) of this paragraph (b).

(3) It shall not constitute a violation of subsection (1) of this section for a person to

take or place title to taxable property in the name of another or to enter into a contract to purchase or sell taxable property in substitution of property acquired in accordance with subsection (2) of this section.

(4) Any person who is an eligible elector as of July 1, 2006, or who has been qualified as an eligible elector under this section shall remain qualified as an eligible elector until such time as such person ceases to meet the qualifications set forth in section 32-1-103 (5).

(5) Any person elected to a board whose qualification as an eligible elector is not challenged and overturned in accordance with the requirements specified in part 2 of article 11 of title 1, C.R.S., shall not be subject to further challenge based upon qualification as a property owner under this section for the remainder of the director's term in office.

PART 9 DIRECTORS - ORGANIZATION OF BOARD

32-1-901. Oath and bond of directors. (1) Each director, within thirty days after his or her election or appointment to fill a vacancy, except for good cause shown, shall appear before an officer authorized to administer oaths and take an oath that he or she will faithfully perform the duties of his or her office as required by law and will support the constitution of the United States, the constitution of the state of Colorado, and the laws made pursuant thereto. When an election is cancelled in whole or in part pursuant to section 1-5-208 (1.5), C.R.S., each director who was declared elected shall take the oath required by this subsection (1) within thirty days after the date of the regular election, except for good cause shown. The oath may be administered by the county clerk and recorder, by the clerk of the court, by any person authorized to administer oaths in this state, or by the chairman of the board and shall be filed with the clerk of the court and with the division.

(2) At the time of filing said oath, there shall also be filed for each director an individual, schedule, or blanket surety bond at the expense of the special district, in an amount determined by the board of not less than one thousand dollars each, conditioned upon the faithful performance of his duties as director.

(3) If any director fails to take the oath or furnish the requisite bond within the period allowed, except for good cause shown, his office shall be deemed vacant, and the vacancy thus created shall be filled in the same manner as other vacancies in the office of director.

32-1-902. Organization of board - compensation - disclosure. (1) After taking oath and filing bonds, the board shall elect one of its members as chairman of the board and president of the special district, one of its members as a treasurer of the board and special district, and a secretary who may be a member of the board. The secretary and the treasurer may be one person, but, if such is the case, he shall be a member of the board. The board shall adopt a seal, and the secretary shall keep, in a well-bound book, a record of all its proceedings, minutes of all meetings, certificates, contracts, bonds given by employees, and all corporate acts which shall be open to inspection of all electors, as well as to all other interested parties.

(2) The treasurer shall keep strict and accurate accounts of all money received by and disbursed for and on behalf of the special district in permanent records. He shall file with

the clerk of the court, at the expense of the special district, a corporate fidelity bond in an amount determined by the board of not less than five thousand dollars, conditioned on the faithful performance of the duties of his office.

(3) (a) (I) For directors serving a term of office commencing prior to July 1, 2005, each director may receive as compensation for the director's service a sum not in excess of one thousand two hundred dollars per annum, payable not to exceed seventy-five dollars per meeting attended.

(II) For directors serving a term of office commencing on or after July 1, 2005, each director may receive as compensation for the director's service a sum not in excess of one thousand six hundred dollars per annum, payable not to exceed one hundred dollars per meeting attended.

(b) No director shall receive compensation as an employee of the special district, other than that provided in this section, and any director shall disqualify himself or herself from voting on any issue in which the director has a conflict of interest unless the director has disclosed such conflict of interest in compliance with section 18-8-308, C.R.S. Reimbursement of actual expenses for directors shall not be considered compensation. No director receiving workers' compensation benefits awarded in the line of duty as a volunteer firefighter or pension payments to retired firefighters shall be allowed to vote on issues involving the director's disability or pension payments.

(4) If a director of any special district owns undeveloped land which constitutes at least twenty percent of the territory included in the special district, such director shall disclose such fact in accordance with section 18-8-308, C.R.S., before each meeting of the board, and the fact of such disclosure shall be entered in the minutes of such meeting. For the purposes of this subsection (4), "undeveloped land" means real property which has not been subdivided or which has no improvements constructed on it, excluding real property dedicated for park, recreation, or open space purposes.

32-1-903. Meetings. (1) The board shall meet regularly at a time and in a place to be designated by the board. Special meetings may be held as often as the needs of the special district require, upon notice to each director. All special and regular meetings of the board shall be held at locations which are within the boundaries of the district or which are within the boundaries of any county in which the district is located, in whole or in part, or in any county so long as the meeting location does not exceed twenty miles from the district boundaries. The provisions of this subsection (1) governing the location of meetings may be waived only if the following criteria are met:

(a) The proposed change of location of a meeting of the board appears on the agenda of a regular or special meeting of the board; and

(b) A resolution is adopted by the board stating the reason for which a meeting of the board is to be held in a location other than under the provisions of this subsection (1) and further stating the date, time, and place of such meeting.

(2) Notice of time and place designated for all regular meetings shall be posted in at least three public places within the limits of the special district, and, in addition, one such notice shall be posted in the office of the county clerk and recorder in the county or counties in which the special district is located. Such notices shall remain posted and shall be changed in the event that the time or place of such regular meetings is changed. Special

meetings may be called by any director by informing the other directors of the date, time, and place of such special meeting, and the purpose for which it is called, and by posting notice as provided in this section at least three days prior to said meeting. All official business of the board shall be conducted only during said regular or special meetings at which a quorum is present, and all said meetings shall be open to the public.

(3) The notice posted pursuant to subsection (2) of this section for any regular or special meeting at which the board intends to make a final determination to issue or refund general obligation indebtedness, to consolidate the special district with another special district, to dissolve the special district, to file a plan for the adjustment of debt under federal bankruptcy law, or to enter into a private contract with a director, or not to make a scheduled bond payment, shall set forth such proposed action.

32-1-904. Office. The office of the special district shall be at some fixed place to be determined by the board.

32-1-905. Vacancies. (1) A director's office shall be deemed to be vacant upon the occurrence of any one of the following events prior to the expiration of the term of office:

(a) If for any reason a properly qualified person is not elected to a director's office by the electors as required at a regular election;

(b) If a person who was duly elected or appointed fails, neglects, or refuses to subscribe to an oath of office or to furnish the bond in accordance with the provisions of section 32-1-901;

(c) If a person who was duly elected or appointed submits a written resignation to the board;

(d) If the person who was duly elected or appointed ceases to be qualified for the office to which he was elected;

(e) If a person who was duly elected or appointed is convicted of a felony;

(f) If a court of competent jurisdiction voids the election or appointment or removes the person duly elected or appointed for any cause whatsoever, but only after his right to appeal has been waived or otherwise exhausted;

(g) If the person who was duly elected or appointed fails to attend three consecutive regular meetings of the board without the board having entered upon its minutes an approval for an additional absence or absences; except that such additional absence or absences shall be excused for temporary mental or physical disability or illness;

(h) If the person who was duly elected or appointed dies during his term of office.

(2) (a) Any vacancy on the board shall be filled by appointment by the remaining director or directors, the appointee to serve until the next regular election, at which time, the vacancy shall be filled by election for any remaining unexpired portion of the term. If, within sixty days of the occurrence of any vacancy, the board fails, neglects, or refuses to appoint a director from the pool of any duly qualified, willing candidates, the board of county commissioners of the county which approved the organizational petition may appoint a director to fill such vacancy. The remaining director or directors shall not lose their authority to make an appointment to fill any vacancy unless and until the board of county commissioners which approved the organizational petition has actually made an appointment to fill that vacancy.

(b) No board of county commissioners shall make an appointment pursuant to

paragraph (a) of this subsection (2) unless it provides thirty days' notice of its intention to make such appointment to the remaining members of the board and the vacancy remains open at the time the board of county commissioners makes its appointment. If the organizational petition was approved by more than one board of county commissioners, then the appointment shall be made by the boards of the county commissioners which approved the petition, sitting jointly. Such an appointment shall be made at an open public meeting.

(2.5) If there are no duly elected directors and if the failure to appoint a new board will result in the interruption of services that are being provided by the district, then the board of county commissioners of the county or counties which approved the organizational petition may appoint all directors from the pool of duly qualified, willing candidates. The board appointed pursuant to this subsection (2.5) shall call a special election within six months after their appointment, which special election is to be held in accordance with the provisions of section 32-1-305.5 and articles 1 to 13 of title 1, C.R.S.; except that the question of the organization shall not be presented at the election. In the event a district is wholly within the boundaries of a municipality, the governing body of the municipality may appoint directors.

(3) All appointments shall be evidenced by an appropriate entry in the minutes of the meeting, and the board shall cause a notice of appointment to be delivered to the person so appointed. A duplicate of each notice of appointment, together with the mailing address of the person so appointed, shall be forwarded to the division.

32-1-906. Directors subject to recall. (1) Any director elected to the board of any special district who has actually held office for at least six months may be recalled from office by the eligible electors of the special district. A petition signed by the lesser of three hundred eligible electors or forty percent of the eligible electors demanding the recall of any director named in the petition shall be filed in the court. Any recall shall be governed by the provisions of part 1 of article 12 of title 1, C.R.S.

(2) to (5) (Deleted by amendment, L. 92, p. 886, § 124, effective January 1, 1993.)

32-1-907. Recall election - resignation. (1) If a director subject to a recall petition offers a resignation, it shall be accepted, and the vacancy caused by the resignation, or from any other cause, shall be filled as provided by section 32-1-905 (2). If the director does not resign within five days after the sufficiency of the recall petition has been sustained, the board shall order that a recall election be held pursuant to the provisions of part 1 of article 12 of title 1, C.R.S.

(2) (Deleted by amendment, L. 92, p. 887, § 125, effective January 1, 1993.)